

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.14559 OF 2008

J.Srinivas Rao

....

Petitioner

Mr.A.P.Bose, Adv.

-versus-

Sub-Collector, Berhampur & ors.

....

Opposite Party

Mr.S.Mishra, ASC

Mr.G.Misra, Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
28.11.2022**

**Order
No.9**

1. Heard learned counsel for the Parties.
2. The Writ Petition involves a challenge to the impugned order at Annexure-1.
3. Taking this Court to the civil proceeding outcome through Annexure-12 again further also submitting that this judgment of the Second Appellate Authority has been affirmed by the Hon'ble apex Court, it is alleged, in the second attempt of mutation proceeding, the Tahasildar did not take into account the effect of the civil proceeding. There is no dispute to this effect.
4. Mr.Misra, learned counsel for O.P.3, however, submits, even though the Tahasildar has not taken into account the effect of the outcome

in the civil proceeding, vide Annexure-12, however, he has taken into account all other aspects.

5. For the opinion of this Court, once the disputed property already involved in a civil proceeding and if the Parties are also in contest in the civil proceeding, the outcome in such civil proceeding has a bearing in the mutation proceeding. For there is no discussion at all on the consideration of the judgment in R.S.A. No.162/2002, this Court finds, it is a fit case for remittance.

6. In the process, this Court interfering with the order at Annexure-1 and setting aside the same remands the proceeding to the Tahasildar, Berhampur, O.P.2 for re-consideration of Mutation Case No.1569/2003. Disposal of the Mutation Appeal involved therein shall however be abided by the ultimate decision in the above Mutation Case. Both the Parties are directed to appear before O.P.2 on 9th December, 2022 and take the date of further hearing. The Mutation Proceeding shall be freshly adjudicated in the involvement of the Parties concerned at least within a period of two months. It is also open to the respective Parties to give further pleading, if any.

7. The Writ Petition stands disposed of accordingly.

(Biswanath Rath)
Judge